

**MINUTES  
FOR THE MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, December 14, 2018  
TIME: **9:15 A.M.**  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

**MEMBERS**

Suzanne Case  
Tommy Oi  
Stan Roehrig

Jimmy Gomes  
Chris Yuen  
Keone Downing

**STAFF**

Kevin Moore-Land  
Curt Cottrell-Parks  
Emma Yuen-DOFAW

Blue Kanahahele-Land  
David Smith-DOFAW

**OTHERS**

Linda Chow/AG  
Davis Yogi/DOT-HAR  
Kahlua Lio/C1  
Norman Uchida/D13  
Wally Ito/D9  
Anne Frederick/D13  
Pua Rossi-Fukino/D13  
Shawn Shimabukuo/D13  
Bridget Hammerquist/D13  
Hope Kallai/D13  
Kip Goodwin/D13  
Sharon Goodwin/D13  
George Antonelli/D9  
Alan Murakami/D9  
Norman Uchida/D13  
Kenneth Ho/D9  
Jason Hine/D9

Abby Lareau/DOT-AIR  
Dre Kalili-DOT-HAR  
Adam Laeha/C1, C3  
Michelle Galim?/D13  
Kevin Chang/D9  
Malia Chun/D13  
Haunani Rossi/D13  
Jodi Malinoski/D13  
Debbie Jackson/D13  
David Bissell/D13  
Aaron Murata/D9  
Douglas Correa/D9  
Michael K. Lee/D9  
Yvonne Izu/D9, 13  
James Manaku/D9, 13  
David Minkin/D9  
Scott Enright/D13

## Haunani Ross/D13

Chair Case called the meeting order at 9:24 a.m. Member Gomes read the Contested Case Hearing statement. Chair Case noted that Item D-7 has been withdrawn from the agenda.

- ITEM M-18** Temporary Revocable Permit until March 2019 to Pacific Shipyards International, LLC, for Office Space and Parking Stalls, situated at Ferry Terminal Building, Pier 19, Honolulu Harbor, Tax Map Key: (1) 1-5-39:63 (Portion).
- ITEM M-19** Issuance of a right of Entry to APEX, Legendary Features Productions US, LLC, at Pier 19 Terminal, Honolulu Harbor, Oahu, Tax Map Key: (1) 1-5-039: Portion of 7.

Davis Yogi and Dre Kalili, DOT-Harbors presented Items M-18 and M-19.

Board Discussion- None

Public Testimony-None

### MOTION

**Approved as submitted Items M-18 and M-19 (Gomes, Oi) unanimous.**

- ITEM M-1** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Bruce and Carlene Mayes, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 21.
- ITEM M-2** Issuance of a Revocable Permit for Installation of ADS-B Radio Equipment to Support the Operation of the U.S. Federal Aviation Administration Air Traffic Control Tower, Harris Corporation, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-72: 5 (Portion).
- ITEM M-3** Issuance of a Revocable Permit for Passenger Check-In, Administrative Offices and Storage Space, Japan Airlines Co., Ltd., Daniel K. Inouye International Airport, Tax Map Keys: (1) 1-1-003: 051 (Portion), (1) 1-1-003:55 (Portion), (1)1-1-003:57 (Portion) and (1) 1-1-003: 058 (Portion).
- ITEM M-4** Issuance of a Revocable Permit for Storage of Ground Service Equipment for Airline Operations, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.
- ITEM M-5** Issuance of a Revocable Permit for Space to Operate and Maintain Airborne Dispersant Delivery System, State of Hawai'i, Department of Health, Hazard Evaluation and Emergency Response Office, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: 105.
- ITEM M-6** Issuance of a Revocable Permit for the Installation of ADS-B Radio Equipment to Support the Operation of the U.S. Federal Aviation

Administration Air Traffic Control Tower, Harris Corporation, Kawaihāpai Airfield, Waialua, Hawai'i, Tax Map Keys: (1) 6-08-14:23 (Portion).

- ITEM M-7** Issuance of a Revocable Permit for Aircraft Parking, Raja Segaran, Kawaihāpai Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-08-14:001 (Portion).
- ITEM M-8** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Randy Pacheco and Reno Soverns, Kawaihāpai Airfield, Waialua, Hawai'i, Tax Map Keys: (1) 6-08-14:001 (Portion) and (1) 6-08-014:018 (Portion).
- ITEM M-9** Issuance of a Revocable Permit for Parking and Storage of its Mobile Mechanic Equipment, Aerosleek, LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-10** Issuance of a Revocable Permit for Main Terminal Ticket Counter, Ticket and Baggage Offices, and Gate House for Airline Operations, American Airlines, Inc., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-11** Issuance of a Revocable Permit, for Cargo Area Ramp Space for a Sorter Unit, Federal Express Corporation, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-12** Issuance of a Revocable Permit for Parking Stalls for Air Cargo Operations, Federal Express Corporation, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-13** Issuance of a Revocable Permit for Ramp Space for Business Operations Equipment, Flying Food Group, LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-14** Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, The Hertz Corporation DBA Hertz, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 32.
- ITEM M-15** Issuance of a Revocable Permit for Terminal Service Counter and Office Space for Greeter's Station and Passenger Lounge, Hualalai Investors, LLC, DBA Four Seasons at Historic Ka'upulehu, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-16** Issuance of a Revocable Permit for Office Space for Greeter Operations in The Old Koa Rental Car Building, MC&A, Inc., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.

**ITEM M-17** Issuance of a Revocable Permit for Airline Operations and Vehicle Parking at the Commuter Terminal and for Aircraft Tie-Down Parking, Schuman Aviation Company Ltd., at Līhu‘e Airport, Tax Map Key: (4) 3-5-001: Portion of 8.

Abby Lareau, DOT-Airports, presented Items M-1 through M-17.

Board Discussion

Member Downing asked about items the Board had questioned previously. Lareau did not know the answers. Member Oi asked if the Board would be seeing renewals of DOT Revocable Permits. Deputy AG Chow was not sure if they needed to be brought back to the Board annually when continued. Chair Case mentioned that the DOT’s position is that they do not need to be brought back to the Board when renewed.

Member Roehrig was concerned that RP’s become like long-term leases when continually renewed. Lareau said many RP’s are for small spaces like airport parking.

Member Oi asked about Ualena Street. Lareau said that most of Ualena Street is on long-term leases. Member Yuen commented on the Hawaii Freight Forwarders RP issue.

Public Testimony-None

**MOTION**

**ITEMS M-1 through M-17, Approved as submitted (Gomes, Roehrig) unanimous.**

**ITEM D-9** Grant of Perpetual, Non-Exclusive Easement to Haseko (Ewa), Inc. for Drainage Purposes and Issuance of Construction Right-of-Entry Permit, Ewa, Oahu, Tax Map Keys: (1) 9-1-011: seaward of 007 and (1) 9-1-134: seaward of 006.

Kevin Moore, Land Division, presented the submittal.

Board Discussion

Member Downing stated he had been against lowering the berm and asked why the flood waters were not diverted into the Haseko lagoon. Yvonne Izu, representing Haseko, explained the problem with crossing the sewer outfall pipe. Member Downing said the purpose of the project was to allow more development. Izu said that Haseko could proceed without the project but that UH and DHHL would have some lands freed up with the project. Member Oi said he didn’t think they needed to lower the berm; they could cut it down in an emergency.

Member Yuen commented if there was no flood, lowering the berm wouldn’t change anything. Member Downing asked about sea level rise; he was concerned that lowering the berm would allow the sea into the area. Chair Case asked why the project couldn’t wait until court appeals had been completed.

## Public Testimony

*Wally Ito*, representing Kua 'Aina Ulu 'Auamo (KUA). Opposed the request. Showed photos of Ewa Beach limu, past and present, and discussed decline of limu.

*Douglas Correa*, Ewa Beach resident, testified against the application. Described how discharge from a drainage channel near Aikahi Place killed marine life.

*James K. Manaku, Sr.*, opposed lowering the berm. Discussed his rights as a native Hawaiian.

*George Antonelli*, retired NOAA scientist. Opposed lowering the berm.

Douglas Correa, asked for a contested case hearing. Member Roehrig suggested that he wait. Chair Case explained that if granted this would stop the public testimony. Correa said he could not wait because he had to leave the meeting. Indicated that he wanted a contested case if the Board approved the project.

Member Yuen made a motion to go into executive session to discuss legal issues. Member Downing second the motion. Unanimous.

10:55 am: Executive Session

11:08 am: Back in Session

Member Yuen made the motion to deny contested case hearing request. Member Roehrig second the motion. Unanimous.

*Michael K. Lee*, spoke in favor of Haseko's proposal because of UH and DHHL. Said he had been given standing in the 2012 contested case hearing. Suggested scrubbers for pollutants, a supplemental EIS, and bringing all parties together. Mentioned a contested case hearing request if these three stipulations were not included but was not requesting one at this time.

*Kenneth Ho*, representing God's Country Waimanalo and Waimanalo Limu Huli. Supported Uncle Henry Chang Wo in opposing the project. Concerned about silt and toxins on limu.

*Kevin Chang*, representing KUA. Said that Uncle Henry had asked on his deathbed for Kua Aina to take over the opposition to the project. Questioned whether limu would be safe to eat.

*Alan Murakami*, representing Native Hawaiian Legal Corp. and KUA. Stressed burden of proof to establish absence of harm and the precautionary principle. Member Yuen said that he wished that KUA had been allowed to intervene. But there were findings of fact and conclusions of law, after a contested case hearing, that the project would not cause harm. It would allow water to flow into the ocean once in ten years rather than once in

twenty years, for a few hours. One day of runoff going into open ocean waters is not going to cause toxins to be accumulated in limu that will hurt people.

Member Downing recounted his experience of seeing marine life killed in Wailupe by freshwater runoff.

Member Yuen said his comments were re accumulation of toxins. Regarding fresh water runoff, this depends upon the situation, how long marine life is in contact with fresh water; it was covered at the contested case hearing.

Member Roehrig moved to deny based on Article XI, Sec. 7 of the state constitution, citing damage to trust rights in gathering limu, and because of the precautionary principle. Can only see this allowed if there was an emergency proclamation by the Governor.

Member Downing commented that it was best to avoid letting runoff go into the ocean. Member Oi commented that there were alternatives; that the County could lower the berm in an emergency. Member Gomes said he agreed with Ito and Murakami, that we should protect resources.

*Yvonne Izu* said it was not proper to relitigate the issues decided in the contested case hearing today.

Chair Case commented that if we denied now, they could apply again. This would be like a deferral. Member Downing commented this was a balance between development and resources. Chair Case said she would vote in favor of the motion because the easement was premature.

### **MOTION**

**Denied (Roehrig, Gomes) vote 6-1 in favor the motion; Yuen voted no.**

12:23 pm: Break for Lunch

1:10 pm: Back in Session

**ITEM D-13** Holdover of Revocable Permits for Water Use on the Islands of Hawaii and Kauai.  
See Exhibit 3 for list of Revocable Permits.

### **Note, RP 7234 is WITHDRAWN**

Blue Kanahale, Land Division, presented the submittal. Noted that there is a correction on page 7 of the submittal. The 7.4/mgd figure is incorrect. It should be 8.0/mgd due to differences at where this is measured. The division has been working closely with DHHL and others. It will present the watershed management plans to the Board at the end of January. Have also been working closely with the permittees.

### **Board Discussion**

The Board started with RP 7340, KIUC.

*David Minkin*, Attorney for KIUC, and *David Bissell*, CEO, provided information through a PowerPoint presentation. This diversion produces 1.5 MW of renewable energy. It is the lowest cost energy produced by KIUC, saves the Kauai customers \$1.75 million/yr., and saves 675,000 gallons per year of diesel.

*Jason Hine*, explained compliance with the Board's three conditions on the previous RP. Showed slides of the changes to the diversions that restored some flow to Wai'ale'ale and Waikoko.

Discussed contacts regarding Watershed Management Plan and with DHHL. Explained increased measuring of flow.

*Bissell*, noted that hydro is 24/7 renewable power. Accepted the balance between energy and stream restoration represented by the staff submittal.

#### Public Testimony

*Scott Enright*, Chair of Department of Agriculture, supported RP 7340. The diverted water supports many downstream agricultural users.

*Anne Frederick*, Executive Director of Hawaii Alliance for Progressive Action (HAPA). Opposed RP 7340 because of the Public Trust Doctrine. Questioned how much water KIUC needed. Said there should be an equitable sharing of water with KIUC.

*Malia Chun*, discussed cultural significance of Wai'ale'ale and habitat. Against holdover of RP 7340.

*Pua Fukino*, whose father has a farm in the lower Wailua area. Was told that there was an auwai, but it is now dry.

*Hauanani Ross*. Discussed Hawaiian customs regarding water, opposes RP 7340.

*Sean Shimabukuro*, representing Grove Farm. In favor of this RP because of energy needs. Grove Farm uses water after it is released to the S. Fork of Wailua, for public drinking water, ag, and other uses. Their water treatment facility serves 15,000 people.

*Kip Goodwin*, representing Kauai Group of Sierra Club. Opposed RP 7340. Wanted more studies.

*Jodi Malinowski*, Sierra Club Hawaii policy advocate, opposed holdover of RP 7340. Questioned whether KIUC needs the water. Sierra Club supports renewable energy but not this diversion.

*Bridget Hammerquist*, representing Kiai Wai o Wai'ale'ale. Criticized the 100' of dry stream remaining even after KIUC implemented changes to the diversion. Wanted to find out what KIUC really needs. Said that the figure given by their group's written testimony

was wrong because they used the wrong figure for the head. Opposed the holdover of RP 7340.

*Hope Kallai.* This is a consumptive use of water. Wanted more studies.

*Sharon Goodwin.* These are public access streams. Complained about rebar at the diversions.

*James K. Manaku, Sr.* KIUC should disclose how this affects 'opae, o'opu, and hihiwai.

*Allen Smith.* Retired from Lihue Plantation and Grove Farm, currently board chair of KIUC. These power plants are important to KIUC.

*Puanani Rogers.* Has been arrested acting as a cultural practitioner. Opposed RP 7340.

Chair Case disclosed that Steve Case, president of Grove Farm, is her first cousin, but she has no financial interest in this matter and will not recuse herself.

*Summer Kauakahi.* Wanted more water to flow naturally. Recounted legend of Pihanakalani.

*Leinaala Ley,* representing Earthjustice. Said there is not enough information to show that this meets with the public trust. There are other streams that feed the hydro plants.

*Sean Stagner,* representing Hawaii Backcountry Adventures. They give inner tube rides through the irrigation ditches downstream of the hydro plants. They have 100 employees who depend on this water; low water would put this activity at risk.

*Bianca Isaki,* consultant with Kiai Wai o Wai'ale'ale. Asked for recusal of Member Oi.

#### KIUC Presentation:

Dr. James Parkham, Consultant for KIUC. Has done biological work on streams in Hawaii for 20 years. Works with Division of Aquatic Resources on these stream issues. Looked at Wailua system for KIUC. Showed video of life in the streams. Lots of o'opu in the North and South Forks of Wailua below the major waterfalls. None above the waterfall in the North Fork because of introduced smallmouth bass, despite this being very good habitat otherwise. Lots of 'opae above the diversions, even in the diversion tunnels.

Returning more water to the North Fork will not result in o'opu returning because the smallmouth bass will get into the same areas. Did not find any Newcomb's snails. The streams below the diversions are not good snail habitat; they prefer springs rather than running streams.

Member Yuen asked if we restored flows would the smallmouth bass get into places that they can't now. Parkham said yes, they are in diversions on the South Fork. The North Fork is not as good habitat for them.

Member Roehrig asked how KIUC could get a contested case hearing in the IIFS. Brad Rockwell said they are in mediation. Member Roehrig asked what are KIUC's plans to return more water to the state lands. Rockwell said that some of the water goes to state land after going through the hydro plants.

Member Yuen asked Pua Fukino about her father's farm. After some discussion it was determined that this farm is not affected by the diversions in question. Member Oi stated that this is a different area where people diverted a different stream.

Member Downing asked about KIUC's maintenance. Bissell said that KIUC has spent hundreds of thousands of dollars on studies and maintenance and has applied to the State for permits for repairs.

In response to a question about how much water KIUC needed, Rockwell replied that we need 25/mgd to run the system at 1.5 mw.

Member Roehrig asked about financial arrangements with Grove Farm. Bissell says they pay no money to Grove Farm for the water diverted from streams arising on Grove Farm land, or for the use of the system.

Member Yuen commented that according to the staff submittal, each 1/mgd generates 4-5% of the total power. There's a tradeoff between leaving water in the stream and generating power.

Bissell said that they keep getting asked by Earthjustice at what point of reduction in stream flow KIUC would stop producing power. Member Roehrig asked what their actual needs were to produce full power. KIUC answered 25/mgd.

Chair Case said that the IIFS process has been successful in Maui cases and in Koke'e/Waimea. These RP's are temporary, but we are on track to convert to lease applications. Staff came up with a solid proposal for this year's RP.

Member Roehrig said that the CWRM proposal is a good starting point and suggested a working group. Member Downing encouraged compromise.

Member Oi recused himself from voting.

Member Yuen made a motion to approve, with an amendment that KIUC enter facilitated discussions. Seconded by Roehrig.

There was some discussion re what groups should be invited, but Earthjustice, Kiai Wai o Wai'ale'ale, Sierra Club, Grove Farm, and DHHL were specifically mentioned. The basic direction was to be inclusive. There should be a report back in three months.

Member Yuen said that the proposed RP is consistent with the Public Trust Doctrine. The hydro would save 6900 tons of CO2 from going into the atmosphere. The diversions don't

affect any taro growers. The lower reaches of Wailua Stream have lots of water. All DHHL lands are near the South Fork of Wailua, not the North Fork. The IIFS recommended figure is consistent with the amounts recommended for habitat preservation in other cases. But in these streams, there may not be ecological benefits from restoring stream flow because of the bass. Just having water in the stream is a benefit. Showed pictures of Wai'ale'ale Stream below the diversion, with 4/mgd, given to him by CWRM staff. The stream has rapids, small waterfalls, the visual aspect of a nice stream. And there is no practical alternative to make up for the loss of this stream water for the hydro plants.

**Amendment:**

- 1. The holdover of Revocable Permit No. S-7340 to Kauai Island Utility Cooperative ("KIUC"), as amended. The Board included a condition that KIUC is to invite Earthjustice, Kia'i Wai O Wai'ale'ale, Sierra Club, Grove Farm, and the Department of Hawaiian Home Lands (together, the "Working Group"), to participate in a facilitated discussion regarding their respective positions on KIUC's request to use State water for its hydroelectricity plants in the permit area, as well as any other relevant matters they choose to discuss. The Working Group may invite other individuals or organizations to participate in the discussion. KIUC shall report back to the Board on the progress of the discussions in three months.**

**MOTION**

**Approved as amended (Yuen, Roehrig) unanimous.**

Member Oi recused.

**ITEM C-1** Request approval of the Kahula Lio Farm Forest Stewardship Management Plan and Forest Stewardship Agreement with Sean Martin, TMK (1) 4-7-007:009 portion, Ko'olaupoko, Island of O'ahu

and

Request approval of Declaration of Exemption to Chapter 343, Hawaii Revised Statutes for the project.

**ITEM C-2** Request approval of the Shlachter Forest Stewardship Management Plan and Forest Stewardship Agreement with Marc Shlachter, TMK (3) 1-1-027:011, (3) 1-1-027:012, and (3) 1-1-027:013, Puna, Island of Hawai'i

and

Request approval of Declaration of Exemption to Chapter 343, Hawaii Revised Statutes for the project.

**ITEM C-3** Request approval of the Kaalaea Koa Farm Forest Stewardship Management Plan and Forest Stewardship Agreement with Stephanie Loui and Steven Loui, TMK (1) 4-7-007:009 portion, Ko'olaupoko, Island of O'ahu

and

Request approval of Declaration of Exemption to Chapter 343, Hawaii Revised Statutes for the project.

**ITEM C-4** Request for approval to enter into a 2-year contract with the Zoological Society of San Diego to provide services to operate the endangered bird captive propagation facility on Maui, the Maui Bird Conservation Center, and to provide expert avicultural services to conduct related forest bird propagation projects at the Keauhou Bird Conservation Center on the Island of Hawaii and throughout the State

and

Request approval of Declaration of Exemption to Chapter 343, HRS environmental compliance requirements for the project.

**ITEM C-5** Request approval to renew a Memorandum of Understanding (MOU) between the United States Department of the Interior, National Park Service, the State of Hawaii, Department of Land and Natural Resources, and the County of Hawaii for management of the Ala Kahakai National Historic Trail.

**ITEM C-6** Request for approval to enter into a multi-year contract with Trailhead Labs, Inc. to build, deploy, and maintain two mobile applications, one for the State of Hawaii hunting program and one for the trails and access program.

and

Request approval of Declaration of Exemption to Chapter 343, HRS environmental compliance requirements for the project.

David Smith, DOFAW, present to answer any question for Items C-1 through C-6.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approve submittal Items C-1 though C-6 (Oi, Roehrig) unanimous.**

- ITEM D-2** Grant of Term, Non-Exclusive Easement to Konohiki Kihapai LLC for Access and Utility Purposes; Issuance of Immediate Management Right-of-Entry Permit, Portions of Waipouli & North Olohena, Kapaa Homesteads, 2<sup>nd</sup> Series, Kapaa, Kauai, Tax Map Keys: (4) 4-4-006: portions of 012 and 013.
- ITEM D-5** Issuance of Right-of-Entry Permit to Hawaii Surfing Association, for Event Operations Purposes Related to the 2019 Hawaii Surfing Association Honolua Legends of the Bay Amateur Surfing Contest on January 12 – 13, 2019, at Honolua, Lahaina, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.
- ITEM D-6** Withdrawal of a Portion of State Lands from Governor’s Executive Order No. 3708 issued to the Department of Transportation, Harbors Division and a Reset-Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) for Public Purposes. Issuance of an Immediate Management Right-of-Entry to DOBOR, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Numbers: (1) 1-2-023: 053, 057, 054, 037 and 059. Grant of Perpetual Non-Exclusive Easement to DOBOR for Roadway Access Purposes, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Number: (1) 1-2-023:033 (portion).
- ITEM D-8** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays on December 31, 2018, at Duke Kahanamoku Lagoon; Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion), at the beach fronting the Kahala Hotel, Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:041, and on Unencumbered State lands off Ko Olina Beach, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-057:seaward of 006.
- ITEM D-10** Request to Amend Prior Board Action of June 22, 2018, (Item D-9):
- Request to Amend the Board’s Prior Approvals for the Setting-Aside of State Lands Located at the Pearl City Educational Complex to the Department of Education to Serve Public School Purposes.*
- The purpose of this submittal is to amend the following Board Actions of: February 14, 1969 (Item F-11), “Amend Board Action of August 23, 1968 Relating to Set-Aside of Lands of Waimano to Department of Education”.*
- Issuance of an Immediate Right-of-Entry to the Department of Education and to the Department of Health; Waimano-Uka, Ewa, Oahu, Tax Map Key: (1) 9-7-025: 004.*
- The purposes of this amendment are to: (a) rescind the Board’s approval of a request to withdraw a triangular-shaped piece of land that was previously understood to be encumbered under Executive Order Number 2273; and (b) approve the withdrawal of State lands from Governor’s Executive Order

Number 1020, to be reset-aside to the Department of Education, as shown on C.S.F. Map 15,692.

**ITEM D-12** Amend Prior Board Action of September 22, 2017, Item D-7, *Grant of Term, Non-Exclusive Easement to Seaview 2004, Inc. for Resolution of Encroaching Seawall Purposes, Spreckelsville, Wailuku, Maui, Tax Map Key: (2) 3-8-002: seaward of 001.*

The purpose of amending the Board's September 22, 2017 action is to increase the area of the easement from 1,128 square feet to 2,206 square feet.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved Items D-2, D5, D-6, D-8, D-10 and D-12 (Gomes, Oi) unanimous.**

**ITEM D-13 CONTINUATION:**

Blue Kanahale, Land Division, restated the submittal.

Holdover of remaining permittees on Kauai (other than KIUC) and Hawaii Island. (RP's 7054, 7088, 7267, 7310, 7426, 7432, and 7463).

*Norman Uchida*, Director of Generating Division for HELCO, gave information about their progress toward a lease. They had major damage from Hurricane Lane to the Waiiau hydro-power plant. The PUC will require a lease before approving major repairs to the plant.

Board Discussion

Roehrig asked Uchida if anyone else wanted to bid on the lease. Uchida, replied not that he knows of?

Public Testimony-None

**MOTION**

**Approve Revocable Permit No. S-7462 to Hawaii Electric Light Co., Inc., Approve the holdover of the remaining water permits on the Islands of Hawaii and Kauai, except for Revocable Permit No. S-7234 to Wood Valley Water and Farm Cooperative ("Wood Valley"). (Roehrig, Gomes) unanimous.**

**ITEM D-3** Report to Board on Status of Revocable Permit No. S-7867; Cancellation of Revocable Permit No. S-7867, Association of Apartment Owners of Country

Club Hawaii, Inc., and Issuance of Month-to-Month Revocable Permit to OceanFront 121 Inc., for Apartment and Hotel purposes, Banyan Drive, Waiakea, South Hilo, Hawaii; Tax Map Key: (3) 2-1-005:020.

Kevin Moore, Land Division. He apologized for not bringing it to the Board in the requested time frame. The former AOA of Country Club has created a new entity "OceanFront 121" will become the new permittee. The shareholders of the new entity would be the people who had "Possession Agreements" for the units. Because the paperwork to create the new entity had not yet been completed, Land Division was proposing to continue the RP with the same entity, with a 3% rent increase. Noted that "Possession Agreements" were no longer valid.

#### Board Discussion

Yuen noted that OceanFront 121 would receive the rents and put it back into the building and wanted to know who was part of Ocean 121? Moore replied it was the 55 shareholders.

Roehrig said the agreements look like time-shares which would be a sub-lease. The State should get a premium if they are charging a flat amount to the entity.

Case commented that any "Possession Agreements" recorded at the BOC should be released.

There was a robust discussion regarding base rent and percentages. Roehrig asked the Deputy AG to clarify and advise.

Public Testimony-None

#### **Amendment:**

***Staff to request the advice of the Department of the Attorney General as to whether it is permissible for the State to charge a base rent plus a percentage of permittee's net revenue, as opposed to gross revenue. Staff is to report back to the Board on the response from the Department of the Attorney General.***

#### MOTION

**Approved as amended (Roehrig, Yuen) unanimous.**

**ITEM D-1** Annual Renewal of Revocable Permits on the Island of Kauai. See Exhibit 2 for list of Revocable Permits.

Wesley Matsunaga, Land Division presented the submittal. He noted that he plans on working with the RP holders to convert to long-term dispositions. Approximately 80% may be suitable.

#### Board Discussion

The discussed how the Division came up with the percentages and why some were higher than others. Matsunaga noted that the justifications are in the comment section of the submittal.

Public Testimony-None

**MOTION**

**Approved as submitted (Gomes, Roehrig) unanimous.**

**ITEM E- 2** Approval to Continue Twenty (20) Revocable Permits for Use of State Parks Lands on the Islands of Kaua'i, O'ahu, Maui, and Hawai'i for the following: Kaua'i: Na Pali Kayak Inc., Kayak Kaua'i, a Hawai'i Limited Partnership, Rick Haviland, dba Outfitters Kauai (Napali Coast State Wilderness Park for Commercial Kayak Landings), Clancy Greff dba Na Pali Eco Adventures, Inc, Na Pali Sea Tours, Inc., Lady Ann Cruises Inc., (Napali Coast State Wilderness Park for Inflatable Boat Landings), Ka Imi Naauao o Hawai'i Nei Institute, Kaua'i Christian Fellowship, (Waimea Canyon State Park Non-profit Recreation-Residences/Camps), Hawai'i Conference Foundation (Koke'e State Park non-profit camp), O'ahu: Diamond Parking Services, LLC (Nu'uuanu-Pali State Wayside, Parking Concession), Bottling Group, LLC (Diamond Head State Monument beverage vending), Erlinda Molina Villanueva (Ahupua'a O Kahana State Park, Agricultural use), Young Men's Christian Association of Honolulu, Hawai'i Climbing Coalition, (Ka'ena Point State Park, Outdoor Recreational Activities), Maui: Republic Parking Northwest, Inc. ('Iao Valley SM, Parking Concession), Hawai'i: Republic Parking Northwest, Inc. (Hāpuna Beach SRA, Parking Concession), Diamond Parking Services, LLC (Akaka Falls State Park, Parking Concession), Adventures in Paradise, Inc., Kona Boys, Inc., Iwa Kalua (Kealakekua Bay State Historical Park, Commercial Kayak Tours). See attached Exhibit A for a list of Revocable Permits.

Curt Cottrell, State Parks. He amended the submittal to add the Exhibit for Exemption of Notification, Exhibit B, which he handed out. He was available to answer any questions.

Board Discussion- None

Public Notice- None

**MOTION**

**Approved as submitted (Oi, Roehrig) unanimous.**

There being no further business, Chairperson Suzanne Case adjourned the meeting at 5:45 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land & Natural Resources